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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Sezan et al. Group Art Unit: 2179
Serial No.: 09/804,612 Examiner: Truc T. Chuong
Filed: March 12, 2001 Customer No.: 55648
Title: AUDIOVISUAL INFORMATION MANAGEMENT SYSTEM

APPELLANT'S BRIEF

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May 9, 2007

Mail Stop APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
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Dear Sir:

BACKGROUND

This brief is in furtherance of the Notice of Appeal, filed in this case on May 5, 2007.

The fees required under 37. C.F.R. § 41.20(b)(2), and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

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This brief comprises these subjects under the headings, and in the order, set forth below:

- I. Real Party in Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds for Rejection to be Reviewed on Appeal
- VII. Argument
- VIII. Conclusion
- IX. Claims Appendix
- X. Evidence Appendix
- XI. Related Proceedings Appendix

The final page of this brief bears the practitioner's signature.

REAL PARTY IN INTEREST

The real party in interest in this appeal is Sharp Laboratories of America, Inc., assignee of the captioned application.

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN THE APPLICATION

There are 23 claims currently pending in the application.

B. STATUS OF ALL CLAIMS

Claims canceled: 1

Claims withdrawn: None

Claims pending: 2-24

Claims allowed: None

Claims objected to: None

Claims rejected: 2-24

C. CLAIMS ON APPEAL

Claims 2-24 are on appeal.

A copy of the claims on appeal is set forth in the Claims Appendix to this Brief.

STATUS OF AMENDMENTS

No amendment was filed after final rejection.

SUMMARY OF CLAIMED SUBJECT MATTER

The claimed subject matter is most broadly set forth in one independent claim.

Independent claim 21 claims a method of using a system with at least one of audio, image, and a video comprising a plurality of frames, and includes three steps. The first claimed step is providing an electronically stored user description scheme containing user preference data for a predetermined user along with at least one descriptor for identification of the predetermined user.

See FIG. 1, references 14 and 20; *See also* Specification at p. 8 lines 7-8, p. 10 line 12- p. 11 line 25; *Id.* at p. 10 lines 16-18; p. 46 line 16- p. 47 line 1. The user preference data is indicative of expected content preferences for an identified predetermined user. *See Id.* at p. 10 lines 12-21.

The second claimed step is providing at least one of a program description scheme and a system description scheme. *See* FIG. 1; *See also* Specification at p. 7 line 2 to p. 8 line 10. If provided, the program description scheme contains information related to at least one of: (1) information regarding interrelationships between a plurality of frames; (2) characteristics of the content of a plurality of frames, characteristics of the content of the audio; (3) characteristics of the content of the image; and (4) characteristics of the content of said video. *See* FIGS. 13-21; *See also* Specification at p. 8 line 14 to p. 9 line 15; *Id.* at p. 29 line 12 to p. 46 line 13. If provided, the system description scheme contains information regarding at least one of: (1) available videos; (2) , available categories; (3) available channels; (4) available users; (5) available images; (6) capabilities of a device for providing said at least one of the audio, the image, and the video to a user; (7) a relationship between at least two of the video, the program description scheme, and the user description scheme; (8) a relationship between at least two of the audio, the program description scheme, and the user description scheme; and (9) a relationship between at least two of the image, the program description scheme, and the user description scheme. *See* FIG. Specification at p. 12 lines 1-15; *Id.* at p. 54 line 17 to p. 60 line 8. In the third claimed step, an electronic device selects, without user input, at least one of a video, an image, and audio based upon an interaction of the user description scheme with at least one of the program description scheme or the system description scheme. *See* Specification at p. 9 lines 10-14; *Id.* at p. 10 lines 18-21; *Id.* at p. 15 line 24 to p. 16 line 15.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection presented for review are (1) whether claims 2-23 are unpatentable under 35 U.S.C. §103(a) over Oosterhout et al., U.S. Pat. No. 6,405,371 (hereinafter Oosterhout), in view of Yoshida et al., U.S. Pat. No. 6,137,486 (hereinafter Yoshida); and (2) whether claim 24 is unpatentable under 35 U.S.C. §103(a) over the aforementioned combination of Oosterhout and Yoshida, and in further view of Brown et al., U.S. Patent No. 6,286,141 (hereinafter Brown).

ARGUMENT

1. Rejection of claims 2-23

The Examiner rejected claims 2-23 under 35 U.S.C. § 103(a) as being obvious over the combination of Oosterhout in view of Yoshida. Independent claim 21 first requires that the claimed user description scheme contain “*electronically stored* user preference data for a predetermined user, said user preference data indicative of *expected* content preferences for an identified said predetermined user.” Then, “an electronic device select[s] *without user input* at least one of a video, an image, and audio *based upon an interaction of said user description scheme* with at least one of said program description scheme or said system description scheme.” These limitations are not disclosed by either prior art reference.

Oosterhout, the cited primary reference, discloses a television transmitter/receiver combination capable of displaying a programming guide. In particular, the disclosed transmitter, in addition to the signals for each respective television channel, also transmits a “mosaic” signal to the receiver through a multiplexer. This mosaic signal, constructed from the respective television channel signals, comprises plural “sub-images” where each sub-image shows an image

related to the content of a respective television channel broadcast to the receiver. The receiver receives the mosaic signal and constructs an EPG screen that displays the respective sub-images in a grid pattern across the television screen, ordered by channel number. Upon viewing the mosaic, a user may select a descriptor value, representing a potential characteristic of television programs, e.g. movies, sports, etc. The receiver then “marks” the particular sub-images that include the user-selected characteristic, thus ostensibly permitting the user to more efficiently browse and select a desired television channel to watch.

Yoshida merely discloses that users may desire to lock out certain channels from the receiver unless a password is entered, so that children cannot see content their parents deem inappropriate. This functionality is completely independent of Oosterhout’s mosaic display, i.e. inclusion of Yoshida’s channel lockout mechanism into the receiver of Oosterhout would not alter the latter’s *mosaic* EPG interface at all. For example, and assuming Oosterhout and Yoshida were combined, if a minor selected the theme of “movies” and one of the subsequently highlighted sub-images was for a channel locked out by a password, then the subsequent selection of that channel by the minor would simply tune the receiver to the channel, which would display either a blank screen, a substitute “not authorized” screen, or the like (*See* Yoshida FIG. 4, steps 1, 5, and 6).

The Examiner’s rejection of independent claim 21 is flawed for two reasons. First, the Examiner appears to initially read the claimed “electronically stored user description scheme containing user preference data for a predetermined user” on the contents of Oosterhout’s EPG memory after a user manually selects a descriptor value, i.e. selecting a programming category in which the user is currently interested, for example “movies.” *See* Office Action at p. 2 and Oosterhout at col. 3 line 66 to col. 4 line 14. In other words, on Oosterhout’s EPG, which presents

a grid of still images, each representative of respective television programs then playing, certain still images will be marked in response to a user inputting a desired category, the marked images representative of programs that match the inputted category. The Examiner contends that the EPG memory, containing the data on which images/programs are marked is an “electronically stored user description scheme” that “contains user preference data” for the user.

However, claim 21 also requires that the electronic device select “*without user input at least one of a video, an image, and audio based upon an interaction of said user description scheme* with at least one of said program description scheme” The Examiner asserts that this reads on Oosterhout’s microprocessor, which is capable of searching for “upcoming programs”, disclosed at col. 4 lines 37-47. The applicant notes, however, that not only is the search made in response to a user input, i.e. pressing a “next” button (See Oosterhout at col. 4 lines 37-38) but the search is made without interaction between the “theme data” stored in memory. *See* Oosterhout FIG. 3 and Specification at col. 4 lines 33-40. Specifically, Oosterhout discloses that, once the “theme” button is selected, and a user selects a particular theme the user is interested in, the method of Oosterhout returns to the step 304 to allow the user to select a full screen program from the mosaic screen (step 307) or return to the previous program (step 305).” Thus, once the memory of Oosterhout stores what the Examiner asserts to be a “user description scheme” there does not appear to be any use for the contents of that memory other than to visually mark some mosaic images in accordance with the inputted user theme. The data in the memory at that point does not interact with anything. Moreover, Oosterhout suggests the desirability of erasing the contents of that memory if the user subsequently presses the “next” button. *See* Oosterhout at col. 4 lines 47-47 (stating the desirability of allowing a user to mark or otherwise highlight

selective ones of the mosaic text/images in the “What’s on Next Overview”, in which case any prior selections/marks would then have to be discarded).

The second flaw in the Examiner’s rejection of claim 21 is that the claim requires that the “user preference data [be] indicative of *expected* content preferences for an identified said predetermined user.” As argued in applicant’s last amendment, Oosterhout’s “user preference data” (read by the Examiner as the mosaic images marked in response to user input) are reflective of the *instantaneous* preferences of the user, as opposed to *expected* preferences. The Examiner fails to respond to this argument, instead attempting a “bait and switch” by contending that Yoshida’s “program lock” feature is representative of “expected content preferences” of a user. The Examiner asserts that “Yoshida inherently teaches that after a user enters his/her password(s) he/she can view the *user preference data* indicative of the expected content preferences for the identified of the predetermined user because the display will view a list of movies or particular channels which were preset/predetermined by the user.” *See* Office Action at p. 4 (emphasis added). Yoshida teaches nothing of the sort. Yoshida teaches that, after a password is entered, *someone else* is prohibited from *tuning to* channels not authorized without the password. Not only does Yoshida fail to teach anything about EPG grids, aside from the menus to set passwords/ratings, but Yoshida only teaches blocking channels and/or scenes in programming when the channels are viewed. Thus, in no circumstance can Yoshida be considered as teaching any modification of Oosterhout’s mosaic grid or Oosterhout’s user *preference data*. To the contrary, as stated earlier, the combination of Oosterhout with Yoshida at best, teaches that Yoshida’s parental lockout feature would act to block either the selection, or viewing, of channels selected from Oosterhout’s EPG mosaic, but would not modify the mosaic at all.

Stated differently, the Examiner has failed to show how, in the proposed modification of Oosterhout by Yoshida, the contents of Oosterhout's memory (the asserted user preference data) indicating the mosaic images to be marked as matching the desired user-selection of, e.g. "movies" would then reflect *expected* preferences of a user. The applicant submits that the Examiner has failed to articulate any explanation as to how Oosterhout's user preference data would be modified by the combination.

For each of these reasons, the Examiner's rejection of claim 21, as well as its dependent claims 2-20, 22, and 23 was improper and should be reversed.

2. Rejection of claim 24

Claim 24 depends from claim 21, and the Examiner's rejection of claim 24 depends on the assertion that the combination of Oosterhout and Yoshida teach all limitations of claim 21. Therefore, the Examiner's rejection of claim 24 is improper for the same reasons as is claim 21, and should also be reversed.

CONCLUSION

The Examiner's respective rejections of claims 2-24 should be reversed, and the claims should be found patentable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kurt Rohlf", with a long horizontal flourish extending to the right.

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CLAIMS APPENDIX

1 (Canceled).

2. The method of claim 21 wherein said program description scheme contains information related to said interrelationships of said plurality of said frames.

3. The method of claim 2 wherein said interrelationships include the identification of key frames of said video.

4. The method of claim 2 wherein said interrelationships include the identification of a plurality of said frames representative of the highlights of at least a portion of said video.

5. The method of claim 2 wherein said interrelationships include the identification of a set of frames, each of which is representative of a different portion of said video.

6. The method of claim 5 wherein said different portion of said video is non-overlapping.

7. The method of claim 2 wherein said interrelationships include the identification of a plurality of sequential frames of said video that represent at least one of a shot and a scene.

8. The method of claim 7 wherein said identification further includes a plurality of said at least one of said shot and said scene.

9. The method of claim 4 wherein said interrelationships includes a plurality of highlights of the same portion of said video having different durations.

10. The method of claim 3 wherein said interrelationships includes a plurality of key frames of the same portion of said video having a different number of frames of said portion of said video.

11. The method of claim 21 wherein said program description scheme contains characteristics of said content of said plurality of said frames.

12. The method of claim 11 wherein said characteristics include at least one of an actor within said video, and a classification of the genre of said video.

13. The method of claim 11 wherein said characteristics include at least one of a color profile of at least a portion of said video, a texture profile of at least a portion of said video, a shape profile of at least a portion of said video, and a motion profile of at least a portion of said video.

14. The method of claim 21 wherein said program description scheme identifies a portion of each of a plurality of said frames of said video that is to be presented to a user at a size larger than it would have been presented within said video.

15. The method of claim 21 wherein said program description scheme identifies a second video segment separate from said video that includes a close up view of a portion of said video.

16. The method of claim 21 wherein said program description scheme identifies a second audio track separate from the normal audio track of said video.

17. The method of claim 21 wherein said program description scheme includes textual annotation related to said video.

18. The method of claim 17 wherein said textual annotation is related to an object within said video.

19. The method of claim 18 wherein said object is an actor within said video.

20. The method of claim 21 wherein said program description scheme identifies Internet based information related to said video.

21. A method of using a system with at least one of audio, image, and a video comprising a plurality of frames comprising the steps of:

(a) providing an electronically stored user description scheme containing user preference data for a predetermined user and at least one descriptor for identification of said

predetermined user, said user preference data indicative of expected content preferences for an identified said predetermined user;

(b) providing at least one of the following:

(i) a program description scheme containing information related to at least one of information regarding interrelationships between a plurality of said frames, characteristics of the content of a plurality of said frames, characteristics of the content of said audio, characteristics of the content of said image, characteristics of the content of said video;

(ii) a system description scheme containing information regarding at least one of available videos, available categories, available channels, available users, available images, capabilities of a device for providing said at least one of said audio, said image, and said video to a user, relationship between at least two of said video, said program description scheme, and said user description scheme, relationship between at least two of said audio, said program description scheme, and said user description scheme, relationship between at least two of said image, said program description scheme, and said user description scheme;

(c) an electronic device selecting without user input at least one of a video, an image, and audio based upon an interaction of said user description scheme with at least one of said program description scheme or said system description scheme.

22. The method of claim 21 wherein said user description scheme is portable between systems containing said program scheme or said system description scheme.

23. The method of claim 22 wherein said user description scheme is contained in a portable data storage medium.

24. The method of claim 21 wherein said user description scheme contains user preference data based upon a user's viewing history or listening history.

EVIDENCE APPENDIX:

None.

RELATED PROCEEDINGS APPENDIX:

None.